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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,313	03/16/2004	Thomas O. Kautz	081445-0361	1983

7590 08/21/2006

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EXAMINER
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WALLING, MEAGAN S

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/801,313

Applicant(s)

KAUTZ ET AL.

Examiner

Meagan S. Walling

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-16, 19, 21-24, 28, 30-35 and 38-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-16, 19, 21-24, 28 and 38-44 is/are allowed.
- 6) ☒ Claim(s) 30-35, 45 and 46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/7/06, 6/28/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 30-35 and 46 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention must produce a “useful, concrete, and tangible result.” *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02.

Claims 30-35 and 46 do not produce a tangible result. In order to overcome the rejection, claim language should be added that includes outputting, displaying, storing, or otherwise conveying the result of the previous method steps.

For the official interim guidelines for examination of patent applications for patent subject matter eligibility, please see the US Patent and Trademark Organization Official Gazette Notices at <http://www.uspto.gov/web/offices/com/sol/og/2005/week47/patgupa.htm>.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 45 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Hisatomi et al. (US 5,055,245).

Regarding claim 45, Hisatomi et al. teaches a housing (3); a first temperature sensor mounted within the housing and configured to sense a first temperature (4); a second temperature sensor mounted within the housing and spaced apart from the first temperature sensor, and configured to sense a second temperature (5); and a processor coupled to the first temperature sensor and the second temperature sensor and configured to estimate a third temperature using the first temperature and the second temperature, wherein the third temperature is estimated from the first temperature and the second temperature using an extrapolation function, and wherein the extrapolation function is a linear extrapolation function, such that the extrapolation function includes a correction factor (column 8, lines 66-68 and column 10, lines 1-4).

Regarding claim 46, Hisatomi et al. teaches measuring a first temperature using a first temperature sensor mounted within a housing (4); measuring a second temperature using a second temperature sensor mounted within the housing and spaced apart from the first temperature sensor (5); and estimating a third temperature from the first temperature and the second temperature using a processor coupled to the first temperature sensor and the second temperature sensor, wherein the third temperature is estimated from the first temperature and the second temperature using an extrapolation function, and wherein the extrapolation function is a linear extrapolation function, such that the extrapolation function includes a correction factor (column 8, lines 66-68 and column 10, lines 1-4).

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*Allowable Subject Matter*

3. Claims 30-35 would be allowable if rewritten to overcome the 35 U.S.C. 101 rejection.

Please see previous office actions and applicant's responses for indication of allowable subject matter.

4. Claims 13-16, 19, 21-24, 28, and 38-44 are allowed.

Please see previous office actions and applicant's responses for reasons for allowance.

*Conclusion*

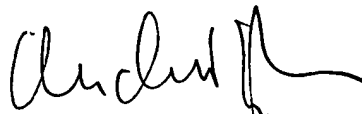
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan S. Walling whose telephone number is (571) 272-2283. The examiner can normally be reached on Monday through Friday 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

msw



MICHAEL NGHIE  
PRIMARY EXAMINER